

IN THE COURT OF COMMON PLEAS
FRANKLIN COUNTY, OHIO

GREGORY FEARS
1623 Moler Road
Columbus, Ohio 43227

Plaintiff,

v.

1-800-FLOWERS.COM, INC.
Corporate Headquarters
One Old Country Road, Suite 500
Carle Place, NY 11514

Defendants.

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: Case No.
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: Judge
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: JURY DEMAND ENDORSED
: HEREON
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COMPLAINT

Now comes Plaintiff Gregory Fears ("Fears"), by and through his undersigned counsel, and herein states the following Complaint against Defendant 1-800-FLOWERS.com, Inc. ("1-800-Flowers").

1. Plaintiff is a natural person residing in Franklin County, Ohio.
2. Upon information and belief, Defendant 1-800-Flowers is a foreign corporation with its principal place of business in Carle Place, New York.
3. At all relevant times, 1-800-Flowers employed four or more employees within the state of Ohio.

JURISDICTION AND VENUE

4. This Court has jurisdiction over this matter because the amount at issue exceeds \$15,000.
5. Venue is proper in this Court because 1-800-Flowers's operates a facility in Franklin County and the acts and omissions alleged herein took place in Franklin County.

FACTS COMMON TO ALL CLAIMS

6. Mr. Fears was hired at Cheryl's Cookies, a division of 1-800-Flowers in or about May 2019 and was wrongfully terminated in April 2020.

7. At the time of his termination, he was a forklift operator working more than 40 hours per week but also did other various jobs as business required in the shipping and receiving department at the company's Obetz, Ohio distribution center.

8. On or about April 19, 2020, Mr. Fears was asked to come to his manager's office and was told he had to take both a drug test and an alcohol test but was not given a reason why.

9. Upon information and belief, 1-800-Flowers does not have a random drug testing policy.

10. Mr. Fears left the 1-800-Flowers facility and went where he had been told to take the tests.

11. He then returned to work but was told by his supervisor, who is a white male, to go home and wait to be called.

12. Mr. Fears passed both tests.

13. On or about April 24, 2020, his supervisor called him and told him not to come back to work.

14. Mr. Fears was not given a reason for his termination, but it appears that he was terminated because of his race, as Defendant had no legitimate business interest in terminating his employment.

15. 1-800-Flowers does not have any non-white supervisors.

16. White individuals who began working at 1-800-Flowers after Mr. Fears, were promoted during Mr. Fears's tenure but he was not.

17. Mr. Fears believes he was replaced by a white male.

18. As such, Mr. Fears was a victim of racial discrimination.

19. As a result of 1-800-Flowers's actions described above, Mr. Fears has been damaged in an amount in excess of \$25,000, to be determined at trial.

COUNT I
HOSTILE WORK ENVIRONMENT RACE DISCRIMINATION
OHIO REVISED CODE CHAPTER 4112

20. Plaintiff realleges and restates the facts and allegations above, as if fully rewritten herein.

21. Mr. Fears was an "employee" as that term is defined in R.C. 4112.

22. 1-800-Flowers is an "employer" as that term is defined in R.C. 4112.

23. At the time he was discharged he was physically able to perform his duties and otherwise met the requirements of his job and laws pertaining to the relationship between employer and employee.

24. Because Mr. Fears is African American, he is a member of a protected class under R.C. 4112 based on his age.

25. Mr. Fears was subjected to the conduct alleged above, including his ultimate termination, due his race.

26. That termination constitutes an adverse employment action under R.C. 4112.

27. As a direct and proximate cause of Defendant's actions, Mr. Fears has been damaged in an amount more than \$25,000, which will be proven at trial.

28. For its violations of R.C. 4112, 1-800-Flowers is liable to Mr. Fears for lost pay and benefits, compensatory and punitive damages, and attorney fees and costs, in an amount to be

determined at trial, but in any event, not less than \$25,000 plus the equitable remedies of reinstatement and/or front pay.

WHEREFORE, Mr. Fears demands the following:

Lost pay and benefits, compensatory and punitive damages, and attorney fees and costs, in an amount to be determined at trial, but in any event, not less than \$25,000 plus the equitable remedies of reinstatement and/or front pay and back pay.

Respectfully submitted.

DEWITT LAW, LLC

/s/ Michael W. DeWitt

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JURY DEMAND

Fears demands that a jury decide all claims in this matter triable to a jury.

/s/ Michael W. DeWitt

Michael W. DeWitt (0066896)